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OFFICE OF PETITIONS
A/C PETENTS

In re Application of
Steinemann, et al.
Application No. 08/580,384
Filed: May 20, 1996
Attorney Docket No. D5715D

DECISION ON PETITION

This is a decision on the petition filed on September 18, 2000, pursuant to 37 C.F.R. §1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 C.F.R. §1.17(c)) within the time period provided in 37 C.F.R. §1.192(a). The application was previously abandoned for failure to timely reply to a final Office action. A grantable petition to revive under 1.137(b) was filed accompanied by a Notice of Appeal. However, as the appeal brief (and appeal brief fee) was not filed within two months of the decision granting the petition to revive, mailed August 10, 1999, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 C.F.R. § 1.192(b), 1.197(c). As no claim was allowed, the above-identified application again became abandoned on October 11, 1999. See MPEP 1215.04. A Notice of Abandonment was mailed on May 23, 2000.

With the instant petition, petitioner filed an appeal brief, in triplicate, (and appeal brief fee) and met all other requirements for a grantable petition under 37 C.F.R. §1.137(b). 37 C.F.R. §1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." The statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to Technology Center 1600 for review of the appeal brief by the examiner.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
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for Patent Examination Policy